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MAY 27 2008

In re Application of
Lake :
Application No. 10/828,720 : DECISION ON PETITION
Filed: April 21, 2004 :
Attorney Docket No. RSW920040056US1 :
:

This is a decision on the petition under 37 CFR 1.137(a), filed October 31, 2007, requesting revival of the above-identified application under the unavoidable delay standard. The petition will be treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before September 28, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed June 28, 2007. A Notice of Abandonment was issued on October 25, 2007.

Applicant's representative is a participant in the Office's E-Notification program, wherein applicant's representative receives a once daily e-mail notification of all applications in which outgoing Office correspondence has been issued. Petitioner asserts that applicant's representative received e-mail notification that correspondence was available for viewing in application no. 10/828,720. The correspondence, when viewed, was for application no. 10/765,382. Applicant's representative sent an e-mail to the Office informing the Office of the error. The Office responded, "...[W]e will have this taken care of.."

A Notice of Allowance and Fee(s) Due and a Notice of Allowability were generated for this application and are present in the application file. However, a review of the record indicates that e-mail notification of the Notice of Allowance and Fee(s) Due and the Notice of Allowability for this application was not sent.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The \$510.00 petition fee will be refunded to deposit account no. 09-0461.

Applicant has submitted a PTOL-85b, the issue fee, and the publication fee with the present petition. Thus, it is unnecessary to re-mail the Notice of Allowance and Fee(s) Due and the Notice of Allowability.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.



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Office of Petitions